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NCWA
Northern California Water Association

September 23, 1999

HAND DELIVERED

Lester Snow
Executive Director
CALFED Bay-Delta Program
1416 Ninth Street, Room 1155
Sacramento, California 95814

Dear Lester:

The Northern California Water Association (NCWA) submits the following comments regarding the CALFED Revised Phase II Report and the accompanying Programmatic Environmental Impact Statement/Environmental Impact Report.

As you know, NCWA has constructively participated in the CALFED process for the past five years and it is our desire to do so into the future. With this said, you need to understand that it is becoming increasingly difficult to support the CALFED process in the face of Northern California water and land being targeted by CALFED and its agencies for use in other parts of the state. For CALFED to succeed, it must stand by the solution principle that there will be no **"redirected impacts"** to the Sacramento Valley. This will require a more aggressive water supply effort to meet the increasing water demands that will accompany an additional thirty-million people in California during the proposed CALFED program.

We hope that you and your staff will closely review these comments and consider them in conjunction with the CALFED field hearings and the numerous comments that you receive from Northern California. Please call one of us or Dan Keppen if you have any questions.

Sincerely yours,

Donald R. Bransford
Chairman of the Board

David J. Guy
Executive Director

David/docs/calfed/lester.calfedsept99

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Principles for the CALFED Bay-Delta Program
Adopted by NCWA's Board of Directors, September 15, 1999

In 1994, the State of California and the United States signed a "Framework Agreement" pledging cooperation on a long-term plan to address chronic water supply and environmental problems in the Sacramento-San Joaquin River Delta and San Francisco Bay (Bay-Delta). Consistent with this pledge, certain urban, agricultural and environmental interests, also in 1994, signed the "Bay-Delta Accord" which established an interim management plan for the Bay-Delta. The Northern California Water Association (NCWA) is a signatory to the 1994 Bay-Delta Accord.

Beginning in 1996 through the present, NCWA helped develop and ultimately supported Proposition 204, the Safe, Clean, Reliable Water Supply Act; the California Bay-Delta Enhancement and Water Security Act; and federal CALFED appropriations for the past three years. Two NCWA Board members—Don Bransford and Tib Belza—have served on the Bay-Delta Advisory Council (BDAC) since its inception. NCWA is also a member of the BDAC Ecosystem Roundtable, and the Water Management Development Team (WMDT). This consistent and constructive participation in the CALFED process reflects our members' commitment to sound water management and environmental stewardship. This commitment has resulted in improved water quality in the Sacramento River and its tributaries, the production of high quality agricultural products, more efficient water use in the Sacramento Valley, increased protections for fisheries and the establishment of thousands of acres of privately managed habitat for waterfowl and wildlife.

NCWA supports the resolution of environmental problems in the Bay-Delta ecosystem, although we believe that Sacramento Valley water users are not major contributors to the environmental problems of the Bay-Delta. From the Northern California perspective, the CALFED process was intended to address problems in the Bay-Delta, which are largely associated with water uses south and west of the delta. NCWA initially endorsed the CALFED process to address these problems based on the CALFED promise that, in seeking solutions, it would not redirect impacts and problems northward. Put differently, Northern California will not tolerate nor in any way accept being the solution area for the rest of the state's water problems.

Despite our concerns, it now appears that CALFED and its agencies are increasingly looking to solve present and future water demands by targeting both water and land in Northern California. NCWA's support of CALFED will continue to be predicated upon CALFED solving problems in the delta, but doing so in a manner that will not redirect impacts to Northern California and will

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not rely upon Northern California to solve the state's water problems. Most notably, this means that CALFED and its member agencies must fully recognize the senior water rights and entitlements held by entities and individuals within the areas of origin. Unfortunately, these fundamental rights and personal freedoms get lost in the zeal to move forward with the CALFED program. Unless these rights are, in fact, recognized and honored by CALFED and its member agencies, NCWA's support for the CALFED program, including support for future funding, will not continue.

NCWA intends to utilize the following principles to guide its participation in CALFED and any negotiations leading to a Record of Decision (ROD).

1. **Water Rights Priority**. The CALFED program must adhere strictly to California's water rights priority system. This system has guided water allocation decisions in this state from a time prior to statehood. The Bay-Delta Accord expressly provides that CALFED and its member agencies must fully honor "the water rights priority system and the statutory protections for areas of origin." The CALFED program must also adhere strictly to the commitments and policies articulated in state and federal law regarding the areas and watersheds of origin. This includes adherence to these commitments and policies, as they should be incorporated into water supply and water diversion contracts.

   The CALFED agencies must recognize that all water supply and environmental issues are not necessarily delta-related. Sacramento Valley water users do not directly rely upon the delta for their water supplies and, as a consequence, are not major contributors to the environmental problems in the Bay-Delta. In our view, the Delta Protection Act (Water Code Section 12200 *et seq.*) requires the State Water Project and Central Valley Project exporters to meet delta salinity standards. Accordingly, the State Water Project and Central Valley Project should be required to meet current and future water quality objectives and standards associated with the State Water Resources Control Board's water quality control plans for the Bay-Delta, but not at the expense of water right holders or project water users upstream of the delta.

2. **Integrated Storage Investigation (ISI)**. CALFED should accelerate its preparation of the Integrated Storage Investigation (ISI) and begin to immediately implement water storage programs that will be necessary to meet a growing population in California and to avoid redirecting impacts to Northern California.

A. **Surface Storage**. The CALFED preferred alternative must encourage the development of new locally controlled and owned off-stream storage in the Sacramento Valley (such as Sites Reservoir, Waldo and Redbank) that will create new yield for upstream needs to meet urban and agricultural demands, to provide flood control benefits and supplement environmental water needs. Enlarging Lake Shasta and Lake Oroville is also critical for flood control and water supply purposes, as long as area of origin rights are protected. In remanaging flows on these rivers, downstream levee seepage and water conveyance issues must be fully addressed.

B. **Groundwater Management**. With respect to groundwater management opportunities in the Sacramento Valley, CALFED can best assist interested local water users to undertake pilot studies and other projects that will help local water users better understand and manage the groundwater resources in their area. State or federally driven programs will stifle local groundwater management opportunities and should be avoided by CALFED and its member agencies. Groundwater management cannot be considered as a substitute for new surface storage.

C. **Reoperation of PG&E Facilities**. CALFED should continue to study the potential water supplies that can be obtained by reoperating existing facilities, including those held by Pacific Gas and Electric (PG&E) in Northern California. This is particularly true if watershed and area of origin benefits can be attained from reoperation. As part of this process, it must be recognized that there are downstream water users within the area of origin that have water rights and contracts with PG&E that must be fully honored before any reoperation or change in water rights can be assumed. Most importantly, the study to examine reoperation potential cannot be used to delay or otherwise prevent improvements in other parts of the ISI, including surface storage.

3. **Delta Conveyance**. The staged development and operation of any new delta conveyance facilities should be consistent with state and federal law and CALFED's policy of "no redirected impacts." Water rights and water supplies of Northern California communities must not be adversely affected by the construction, operation or management of new water supply facilities, or by the integrated management of existing State Water Project or Central Valley Project facilities. Northern California communities and water users should also have fair representation on any new management entity or institution designed to manage or administer both new and existing facilities or projects.

4. **Environmental Water Account (EWA).** The EWA largely relies on water transfers from Northern California to fund the account during the initial years. CALFED must recognize that Northern California water users cannot transfer water for the account until the water rights issues are resolved in the current State Water Resources Control Board (SWRCB) Bay-Delta proceedings. CALFED must avoid becoming a "deep pockets" competitor for Sacramento Valley water supplies when there are still unmet needs in Northern California. In addition to water transfers, CALFED must recognize that there are limited upstream opportunities in the Sacramento Valley for CALFED and its agencies to purchase or otherwise develop water assets without developing new surface water storage. We strongly encourage CALFED to increase flexibility in the delta so that water users can fully utilize delta water supplies, but only to the extent that there are no additional obligations to Northern California water users.

5. **Water Transfers.** Water transfers cannot be used as a substitute for developing new water supplies, such as storage. CALFED should implement water transfer policies consistent with and as a supplement to the broader and long-term solution to water supply problems in the Bay-Delta. The policy should recognize that the actual water right holder—the owner of the water right—should determine the disposition of the water to be transferred, unless otherwise provided by law. These guidelines should also ensure that a transfer will not cause unreasonable community, financial, water supply, operational or environmental impacts. Transfer proposals that would result in degradation of groundwater quality or the overdraft of the safe yield of affected groundwater basins should be restricted. Transfers between parties within the same basin should be encouraged and facilitated. Transfers in accord with these policies should be deemed a beneficial use of water, including the transfer of water made possible through conservation or efficient water management practices.

6. **Ecosystem Restoration Program.** The CALFED program must fully address the environmental problems in the Bay-Delta ecosystem. CALFED's restoration efforts must consolidate the myriad of existing agency programs into a cohesive plan that focuses upon maintaining existing habitat and fully utilizing existing public lands for habitat purposes. CALFED should recognize that while upstream water users are not major contributors to the environmental problems in the Bay-Delta, protection and enhancement of upstream fish and wildlife habitat on the Sacramento, Feather, and Yuba rivers and their tributaries has already helped resolve certain Bay-Delta environmental problems.

Whenever possible, the CALFED program should support continuing agricultural activities on farmland. There should be no unilateral governmental action that restricts or otherwise dictates how private property shall be farmed. The CALFED program should also recognize and be consistent with voluntary water management and agricultural production practices that provide associated waterfowl and wildlife benefits. The NCWA Board on June 16, 1999 adopted a policy entitled "Responsible Land Acquisition for Environmental Purposes" that describes the Board policies on these issues. This has previously been provided to CALFED.

7. **Flood Protection**. Upstream actions to improve environmental values must not threaten water rights, water supplies or flood control protection for Northern California communities. Flood protection policies, such as CALFED's delta levee program, should apply to upstream levee sections in the Sacramento Valley. At the present time, ecosystem actions proposed by CALFED will exacerbate flooding in the Sacramento Valley and may conflict with existing floodplain management regulations. For example, proposed higher flows on the Sacramento, Feather and Yuba rivers, or other tributaries, may damage levees, bypasses and weirs that are saturated for longer periods of time, and may exacerbate levee stability in seepage-prone areas. In addition to threatening flood control protection, increased flows may raise local maintenance and repair costs for water suppliers as well as flood and levee districts. Additional seepage may also damage farmland adjacent to rivers.

   CALFED's proposed land acquisition projects for riparian forests within the Sacramento Flood Control Project may ultimately reduce the channel capacity of the Sacramento River, inhibit maintenance of levees and the removal of vegetation and weaken levees during flood events, resulting in more widespread flooding. Levee set-back and river meander projects—in which the river may change course—also threaten flood control protection, agricultural diversions, and fish screen projects. CALFED should complete a comprehensive analysis on the potential effect of these proposed actions on public safety in Northern California, recognizing that the Army Corps of Engineers and the Reclamation Board are conducting a comprehensive flood control assessment for the Central Valley.

8. **Water Use Efficiency**. The CALFED program should encourage overall water management as a means to better facilitate the development of water supplies. Traditional concepts of water conservation will have limited success in the Sacramento Valley in developing new water sources. The CALFED preferred alternative and any legislation

must focus on water use management through region-specific plans that provide incentives and take into consideration such factors as surface and groundwater quality and quantity, soil quality and type, cultural practices and economic and environmental benefits.

9. **Environmental Review**. CALFED must fully comply with both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). This must include a meaningful analysis of potential impacts to Northern California's water and land resources and it must address the cumulative impacts that will result from redirecting land and water to other parts of the state.

10. **Water Quality**. NCWA supports the need for high quality water throughout the state. CALFED must defer to existing regulations and laws regarding water quality and particularly the authority given to the SWRCB and the Regional Boards in California. Any water quality standards must be based upon sound scientific standards. It is important that other programs, such as efficient water management practices, do not result in water quality problems in the areas of origin.

11. **Fish Passage Improvements**. The CALFED preferred alternative must provide adequate financing and insure state and federal support for the implementation of a coordinated fish screening and fish passage program. This program should be implemented both upstream and in the Bay-Delta. The program should prioritize expenditures and implementation based upon criteria that will result in the greatest measurable benefit to the fishery. These improvements are the showpiece for CALFED and they provide known benefits to the ecosystem and agricultural water supply reliability.

12. **Endangered Species Act Compliance**. The CALFED preferred alternative must provide certainty that agreed upon project facilities and their operations will not be limited or otherwise prohibited based upon future regulatory determinations. The CALFED preferred alternative must include assurances that water users will be protected from future regulatory actions, regardless of their source.

    CALFED must also assure that cooperating landowners will not be prevented from continuing their existing land use practices because of CALFED actions and particularly the multi-species conservation measures. An assurances program provides the critical avenue through which ecosystem conservation and restoration can occur in harmony with needs of landowners, counties, local agencies and other private interests.

13. **Watershed Management**. Although local watershed management programs have been beneficial in certain areas, such as Butte Creek, Mill Creek and Deer Creek, CALFED should proceed cautiously with watershed management programs until it is clear that there will be real and meaningful benefits. Any watershed program must comply with the land and water use authority held by local counties and water agencies.

14. **Financing**. The CALFED financial plan should be based upon a comprehensive program that includes significant financial commitments from state and federal agencies. CALFED should initially focus on the redirection or revised management of state and federal programs related to CALFED's goals. Program elements that provide broad public benefits should be funded by state and federal agencies and through new appropriations. Specific projects should be cost-shared wherever feasible. Water suppliers that contribute to the Central Valley Project Improvement Act Restoration Fund or to a specific project identified or recognized in the Category III or CALFED program should receive credit against any potential future financial obligation. New fee or contribution requirements must sunset so that funds are recovered only for the specific purposes and duration intended. There should be no tax or fee associated with the use or ownership of water.

15. **Local Coordination Plan**. CALFED should develop a local coordination plan for its member agencies that shows how the different program elements will be implemented in concert and with input from local interests.

16. **Solution Principles**. The CALFED preferred alternative must be consistent with the six solution principles established by CALFED (reduce conflicts in the system, be equitable, be affordable, be durable, be implementable, and have no significant redirected impacts). CALFED must carefully evaluate its plan to assure full compliance with the solution principles.

NCWA
Northern California Water Association

COMMENTS ON CALFED REVISED PHASE II REPORT AND PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT

For several years, the Northern California Water Association has been expressing our members' concerns with the CALFED program and its proclivity to redirect both water and land in Northern California to solve the problems in the Bay/Delta. We will continue to demand that Northern California benefits from the CALFED process and that this region move forward into the next century at the same pace as others with a significant stake in the Bay/Delta. For this to happen, CALFED, at a minimum, must fully honor and implement its solution principles, including the tenet that there be **"no significant redirected impacts."** As we have stated for many years, this means that CALFED must change its present course to avoid any significant redirection of Northern California resources.

Our comments will focus upon CALFED's redirection of Northern California resources, including both land and water, within the context of both the Revised Phase II Report and the accompanying Programmatic Environmental Impact Statement/Environmental Impact Report (hereafter "PEIS"). We have also outlined areas where we feel the existing document requires additional detail necessary to properly describe individual program components. Finally, this paper provides recommendations on how the CALFED preferred alternative can minimize impacts, and even benefit the Sacramento Valley. Key sections of this report:

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As the numerous components of the program are further developed, we will provide further and more detailed comments.

I. NORTHERN CALIFORNIA AGRICULTURE IS AN IMPORTANT PART OF THE EXISTING ENVIRONMENT

Farms and ranches throughout Northern California are an important part of the environment that is expressly recognized in both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). Several Sacramento Valley water agencies deliver water to state and federal wildlife refuges and a large portion of this land also serves as important seasonal wetlands for migrating waterfowl, shorebirds and other wildlife. There is no question that Northern California agriculture has its roots well entrenched in the physical environment. Agriculture as defined in federal law "includes farming and all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity . . . ." (29 U.S.C. §3203(f); *also see* Labor Code §140.4(a) and Civil Code §3482.05(e).)

Additionally, farmland and habitat in the Sacramento Valley are managed in an integrated manner, including compatible management (i.e. alternative land uses managed for habitat values, including agricultural crops, ranches, open space and recreational areas); and lands currently managed for agriculture with future restoration potential. Some habitat sites are managed for an economic function (like ranching), and operated in a way to protect the natural resource values (such as a working cattle ranch and hunt club that is managed to protect the natural resources). Other places may be managed for agriculture that can also support wildlife (ricelands as seasonal wetlands). Some areas have been purchased for eventual restoration but are currently functioning orchards and producing income for local farmers (e.g. USFWS Sacramento Wildlife Refuge).

The agricultural resource base is the environment for purposes of NEPA. (42 U.S.C. 4332(2)(A); 40 C.F.R. 1508.8; *Nat'l Assoc. of Government Employees v. Rumsfeld* (E.D. Penn. 1976) 418 F.Supp. 1302,1306.) CEQA specifically provides that a project will have a significant effect on the environment if it will convert prime agricultural lands to non-agricultural use or impair the agricultural productivity of prime agricultural land. (Pub. Res. Code §§21060.1, 21060.5, 21095; 14 C.C.R. 15000, *et seq.*, Appendix G(y) to State CEQA Guidelines.) Any adverse effects on agricultural water resources are also significant. (Pub.Res.Code §21159.2; State CEQA Guidelines, Appendix G(f)(g)(h) and (i).

Additionally, the State CEQA Guidelines require that "knowledge of the regional setting is critical to the assessment of the environmental impact. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project." (State CEQA Guidelines §15125(a); *also see Metropolitan Edison Co. v. People Against Nuclear Energy* (1983) 460 U.S. 766; *Sabine River Authority v. Dept. of Interior* (5th Cir. 1992) 951 F.2d 669.) Agricultural lands in the Sacramento Valley and the attendant water supplies are a resource of global significance that is unmatched anywhere in the world. This means that special emphasis must be given to agriculture and the attendant environment in the Sacramento Valley and the larger Central Valley. Put simply, the environmental review will be inadequate if it fails to identify and analyze a water project's impact on agriculture in the Sacramento Valley and throughout California. (*See Galante Vineyard v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109-1122.)

There are also a host of Constitutional and legislative provisions that expressly recognize the importance of farms and ranches to the existing environment:

- As part of CEQA, the California Legislature has stated that:

  "(a) Agriculture is the state's leading industry and it is important to the state's economy;
  (b) The continued productive of agricultural lands in California is important in maintaining a healthy agricultural economy;
  (c) The conversion of agricultural lands to non-agricultural uses threatens the long-term health of the state's agricultural industry;
  (d) The California Environmental Quality Act plays an important role in the preservation of agricultural lands." (Stats. 1993, ch.812, §1.)

- California Constitution, Article XIII, §8 heralds the importance of land used for the "production of food or fibre" along with attendant open space values which significantly contribute to the environment.

- In the California Land Conservation Act of 1965, the Legislature declares:

  (a) That the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of

> the state's economic resources, and is necessary not only to the agricultural economy of the state, but also for the assurance of adequate, healthful, and nutritious food for future residents of the state and nation....
>
> (d) That in a rapidly urbanizing society, agricultural lands have a definite public value as open space, and the preservation in agricultural production of such lands, the use of which may be limited, constitutes an important physical, social, aesthetic, and economic asset to existing or pending urban or metropolitan development. (Cal. Gov. Code §51220, *et seq.*)

- The Agricultural Land Stewardship Program Act of 1995 provides that "the long-term conservation of agricultural land is necessary to safeguard an adequate supply of agricultural land and to balance the increasing development pressures around urban areas." (Pub. Res. Code §1010201(d).)

- The Thurman Agricultural Policy Act provides that:

> A profitable and healthy farming industry must be sustained by a sound natural resource basis of soils, water, and air which is developed, conserved, and maintained to ensure sufficient quantities and highest optimum quality possible. (Food & Ag. Code §802(g).)
>
> One of the major principles of the state's agricultural policy shall be "to sustain the long-term productivity of the state's farms by conserving and protecting the soil, water and the air which are agriculture's basis resources." (Food and Ag. Code §821(c).)

- The federal Agricultural Improvement and Reform Act of 1996 provides that:

> The nation's farmland is a unique natural resource, and each year a large amount of the nation's farmland was being irrevocably converted from actual or potential agricultural use to nonagricultural use in many cases as the result of action taken or assisted by the federal government. The Federal Farmland Protection Program directs federal agencies to identify and take into account the adverse effects of federal programs on the preservation of farmland; consider alternative actions, as

> appropriate, that could lessen such adverse effects; and assure that such federal programs, to the extent practicable, are compatible with state government, local government and private programs and policies to protect farmland. (Fed. Reg. June 17th, 1994, page 31110.)

These detailed assertions by the People of California, their Congress and the Legislature speak for themselves about the public interest in California agriculture and its importance to the existing environment.

II. THE PEIS FAILS TO PROVIDE THE NECESSARY DETAILS ON THE ELEMENTS FUNDAMENTAL TO A CALFED SOLUTION

The PEIS/EIR fails to comply with NEPA and CEQA by not adequately addressing the significant environmental effects in the Sacramento Valley that would result if the proposed plan were implemented. Most notably, the Draft PEIS/EIR does not provide a sufficient level of detail and analysis in several areas important to NCWA members, such as new storage, conjunctive management of surface and groundwater, and environmental restoration measures. Key information is equally necessary on elements such as the phasing and implementation of various program projects and actions, financing and assurances. Without this detailed information, the environmental impacts cannot be adequately addressed.

Overall, the water supply purpose must be defined as levels of need for urban, agricultural, and environmental uses. A near-term goal is necessary to begin replacing water that was, or will be, dedicated to the environment through the Central Valley Project Improvement Act (CVPIA), the Trinity River flow decision, the Bay-Delta Accord (Accord), the Endangered Species Act (ESA) and the Clean Water Act. Levels of need must be established and refined.

A. Storage and Conveyance Issues

CALFED has not quantified area of origin water needs. It is interesting that CALFED commitments made to areas of origin in last December's "Revised Phase II Report" (page 43) are completely omitted from the latest Phase II Report. This is a critical concern to our area, and without a thorough discussion of these rights, the text of the Programmatic EIS/EIR is clearly inadequate. The solution provides no new water to the Sacramento Valley and does not appear to compensate for water already lost due to the Central Valley Project Improvement Act (CVPIA) and the Endangered Species Act (ESA). For example, the U.S.

Interior Secretary has denied the Tehama-Colusa Canal Authority request for additional water, which, if granted, would provide one clear method of satisfying area-of-origin needs.

Additional specific information on storage and conveyance facilities is needed to fully link background studies to proposed actions. CALFED has held off on further commitment to identify surface storage locations and sizes until detailed study and interaction with stakeholders is accomplished in the next few months. However, during the first stage of the Program, CALFED intends to support the construction of at least 2 to 3 groundwater banking facilities with a target volume of 500,000 acre feet of storage (Page 88, Phase II Report). CALFED's insistence on moving forward with defined groundwater storage targets is clearly contradictory to their strategy of delaying a meaningful decision on new surface storage locations and targets. We look forward to the release of a CALFED document that seriously examines the relative benefits of new groundwater and surface storage facilities.

The size and configuration of the proposed isolated conveyance facility is not disclosed in sufficient detail. There is limited discussion in the CALFED report of a 2,000 to 4,000 cfs diversion, with no configuration proposed for the proposed upper limit of this range. The process for triggering additional conveyance facilities appears to open the door for expansions and extensions of the isolated conveyance facility, beyond the scope discussed elsewhere in the report. CALFED must better define the water quality benefits to be derived from an isolated facility. Furthermore, the criteria are overly rigid, in stark contrast to its vague and ambiguous context. If we are to be shackled to rigid standards (50 ppb bromide, 3 ppm TOC), there should be some demonstration of why these were chosen, and a scientific analysis of whether or not they will probably be attained. We see no reason to set an arbitrary numerical standard in advance of a future delta conveyance decision.

CALFED's observations regarding flood control benefits of future offstream storage appear to be preliminary and can only be conclusively stated after specific siting and operations criteria have been developed. The Draft PEIS/EIR notes that, while increased storage on Sacramento River tributaries could provide localized flood control, it would have to be considered unreliable as a flood control measure, since the additional storage would be dedicated for other purposes. This may not necessarily be true if operation criteria are developed that dedicate additional flood control reservoir capacity to reservoirs currently managed primarily for water supply purposes (e.g. Shasta and Oroville). The reservoir water supply storage dedicated to flood control may be reallocated to the new storage facilities.

Several basic operating assumptions stated in Appendix 1 require clarification from CALFED as to their application in forming the basis for future CALFED policy. Key operating concerns include: allocation of new surface water supplies, allocation of new groundwater and conjunctive use water, new storage filling and discharge criteria, and beneficial use allocation of new stored water. For many of the alternative configurations which include storage, CALFED assumes that new diversions to storage from the Sacramento River cannot occur in any given water year until a 60,000 cfs mean daily flow event that "preserves the river's natural fluvial geomorphology process" has occurred at Chico Landing. CALFED must: 1) Provide solid justification for the use of this value, and 2) Clarify the apparent conflict that may exist between this assumption and a proposed CALFED mitigation measure which suggests that limiting offstream diversions to the August-October time period might mitigate fisheries impacts.

The Draft PEIS/EIR provides only a very preliminary, primarily qualitative assessment *of potential adverse impacts and benefits to groundwater resources resulting from* CALFED activities, including up to 250,000 acre-feet of conjunctive management in the Sacramento Valley. For the most part, CALFED actions are anticipated to result in less than significant adverse impacts. For those areas with potentially significant impacts, mitigation measures are expected to remedy potential problems. The Draft PEIS/EIR notes that no groundwater modeling studies were performed and that groundwater impacts were evaluated qualitatively. However, the Draft PEIS/EIR also notes that impacts are assessed based on several potential occurrences, including degradation in groundwater quality, long-term declines in groundwater levels, third party effects and land subsidence. It is unclear how these impacts were assessed in the absence of groundwater modeling.

CALFED's plan does not contain sufficient detail on conjunctive management planning. The CALFED Conjunctive Use Work Team (CUWT) has worked for over a year to identify and attempt to resolve groundwater management policy issues related to CALFED. However, very little discussion is dedicated in the current CALFED document regarding these efforts, which could provide an immediate framework to address questions brought up elsewhere in the document. For instance, the Phase II Report suggests on page 20 that the lack of comprehensive groundwater management in California will limit CALFED's ability to improve statewide water management. The CUWT has already identified key impediments to successful groundwater management in California. Review of this effort and further investigation by CALFED will soon demonstrate that meaningful groundwater management is being addressed throughout California - at the local level.

B. Ecosystem Restoration Program

CALFED's *restoration efforts must consolidate the myriad of ongoing agency programs* into a cohesive plan that focuses on maintaining existing habitat and fully utilizes public lands prior to acquiring new land. CALFED should carefully consider and plan to avoid adverse social, economic or environmental effects to local communities before embarking on a large-scale ecosystem restoration program. CALFED intends to also monitor and report land use changes, such as agricultural land conversion, resulting from restoration actions. A necessary preliminary step that has yet to be taken is the determination of all acquisitions that have already occurred associated with state and federal habitat protection efforts.

Overall, additional work is required to provide the proposed Ecosystem Restoration Program with a clearly focused approach to ecosystem restoration. The present ERP is deficient in several areas important to NCWA members:

- The Ecosystem Quality purpose must be defined as specific goals for species recovery and/or acreage of habitat restoration.

- The ERP fails to support the document's basic premise as to how specific instream flows will benefit ecosystem restoration[1]. CALFED must clearly identify all proposed flows from each affected Bay-Delta tributary. In the absence of scientific justification, additional flows should not be dedicated or acquired.

- Additional documentation and justification should be provided to demonstrate that certain smaller Sacramento River tributaries would sustain an annual cycle of salmon production.

- While the Phase II Report acknowledges the need to continue screening efforts for unscreened or poorly screened diversions, CALFED still has not detailed a priority implementation plan for such a program. The funding for this program also does not *manifest itself in the proposed Stage 1 implementation plan.*

- The ERP does not include an objective assessment of the effects of fishery harvest on Central Valley anadromous salmonids.

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[1] The Phase II Report (page 104) notes the "uncertainties" associated with in-stream flow and recommends continued evaluations of in-stream flow needs. Yet at the same time, the Report boldly promotes the acquisition of 100,000 acre-feet of water for ecosystem needs.

- The CALFED implementation plan should provide a detailed accounting of locations, estimated acreage, and proposed land uses, as well as a preliminary acquisition schedule for the estimated 26,000 – 34,000 acres of agricultural land that will be converted to habitat purposes in the Sacramento Valley.

- The current outline presented in "Developing a Strategic Plan for Ecosystem Restoration" does not address potential impact issues associated with "natural process replication" ERP actions and only discusses in a peripheral manner how these issues will be adaptively managed. CALFED intends to prepare annual reports to address the performance of habitat restoration actions compared to expected results (Phase II Report, Page 133). The plan still does not clearly explain what the "expected results" are for habitat restoration projects that replicate natural processes.

We support CALFED's efforts to develop a comprehensive, real-time monitoring program to guide adaptive management decisions.

Existing levees along the Sacramento and Feather Rivers and new set back levees proposed by the ERP require additional attention by CALFED. The long-term Levee Protection Plan addresses only those levees within the legally defined Delta. CALFED is to be commended for this well organized document, which appears to be supported by excellent documentation. While this document does not appear to address levee construction or reconstruction in other parts of the CALFED study area, such as setback levees associated with upstream ecosystem restoration activities, we recommend that it be used as a basis to provide technical and financial recommendations for this purpose. CALFED is now including the Suisun Marsh levee system in the Levee Program (Phase II Report Page 50) – this program should be similarly expanded to include Sacramento Valley levees. CALFED should also develop a risk assessment similar to the proposed delta levee assessment (Phase II Report, Page 150) for all tributary areas that will be impacted by land acquisition and flow modifications related to the ERP.

CALFED notes that habitat has been lost or adversely altered due to construction of flood control facilities and levees needed to protect developed land (Phase II Report, Page 11). The report fails to indicate how much riparian or wetland habitat has been **preserved** as a result of flood protection and bank stabilization. In the Sacramento Valley, a considerable area of wetlands habitat – not just those adjacent to levees – are afforded protection by these facilities. Flood control improvements, including bank protection, are deemed necessary to

reduce the risk of erosion and possible levee failure that can cause damage to plant and animal habitat, as well as human habitat.

Clarification will be required by CALFED to better specify which portions of other existing restoration programs will be implemented under the CALFED umbrella. For example, SB 1086 actions are not included in the No-Action Alternative because "many" of these actions are being considered for implementation by CALFED ("No-Action Alternative", Attachment A). Also, while this appendix notes that a "partial" list of CVPIA actions are included in the CALFED No-Action Alternative, it appears that these actions are limited to flow reallocations relating to CVPIA (b)(2) requirements and Level IV refuge water deliveries. The No Action Alternative and the Cumulative Impact Assessment sections of Attachment A require additional clarification to show how CVPIA and SB 1086 riparian enhancement target acreage directly relate to similar proposed CALFED ERP actions.

CALFED must specify which programs and individual ERP actions will be used by the National Marine Fisheries Service (NMFS) and other CALFED agencies to address recent NMFS decisions to fold recovery actions into the CALFED solution for: 1) steelhead trout; 2) spring-run and winter-run chinook salmon; and 3) splittail minnow.

NCWA advocates that CALFED develop a plan which ultimately will implement fiscally and biologically sound restoration objectives through cooperative partnerships between local, state and federal governments and public and private interests. The CALFED goal should be to develop a workable, action and results-oriented plan which can be implemented in a timely manner.

CALFED must develop a priority implementation plan to address fish screening and other fishery improvements at riverine diversions. CALFED notes that effective screening of diversions would reduce entrainment of all species in the mainstem river and tributaries. Several fishery restoration projects have been completed in the Sacramento Valley, and many other key fish screen projects are either under construction, or slated for construction in the near future. CALFED should continue to focus on these efforts, which serve a twofold purpose: 1) Improved migratory conditions for threatened and endangered chinook salmon and steelhead trout, and 2) Development of expanded empirical information to better address the unprecedented screening proposed by CALFED for the Delta export pumps, and possibly, the screened intake for an isolated facility.

C. Implementation Strategy

The implementation plan must link projects meeting ecosystem restoration, water supply, and water quality and system integrity objectives in a manner that ensures that all objectives achieve benefits on an incremental basis. This plan should include triggers, linkages, and conditions to be met before various actions are taken. Near term implementation bundles proposed for Northern California appear to provide only benefits to the ecosystem (Phase II Report, page 134). The CALFED Draft PEIS/EIR only briefly discusses a strategy to assure that the plan will be implemented and operated as agreed. Judging by the composition of the Sacramento Valley implementation bundle and the restoration work already completed, CALFED's plan clearly advocates ERP implementation ahead of other CALFED common and variable programs.

CALFED's current implementation strategy, which requires "a high level of water use efficiency achieved throughout the solution area" prior to construction of new storage projects, represents an impediment to realistic improvements to supply reliability. New storage should instead be linked with demonstrated progress and commitment to improved water use efficiency by beneficiaries of storage projects[2], commensurate with level of opportunity identified and economic feasibility of implementation.

Initial ERP actions carried out during Stage 1 should generally be more straightforward actions for which there is strong scientific understanding and justification. These actions should focus on clear solutions to known problems, since many of the land and water acquisition actions proposed by the ERP may also result in unpredictable and changing river conditions that could directly impact agricultural diversions and protective fish screens, and may increase conflicts with state and federal endangered species regulations. These actions may also adversely affect the viability, operation and management of local agencies that provide necessary water supply, drainage, flood control, bank protection and other services to area landowners.

***CALFED should summarize existing regulatory programs, explain associated authority,* and develop a coordinated plan that shows how conflicts between the Endangered Species Act, Clean Water Act, Central Valley Project Improvement Act and other regulatory mandates will be rectified.** CALFED's intent to take all reasonable measures to integrate current federal and state ecosystem programs, projects and funding that benefit the

[2] Including those agencies complying with AB 3616, CVPIA and other approved agricultural water conservation plans; and those with locally adopted IRP's and CUWCC certification.

Bay-Delta system is an encouraging first step towards addressing a much larger issue. We are further encouraged by CALFED's observation that land and water acquisition activities for other programs in specific watersheds (CVPIA, Central Valley Habitat Joint Venture, etc) will reduce the amount of land and water that CALFED must acquire. However, we question how CALFED can make a determination of whether other program habitat and water objectives are being met when no such discussion – even in a preliminary sense – is included in the current planning document.

CALFED should develop a "Local Coordination Plan" that clearly shows how all program elements, particularly those involving groundwater or acquisitions of land and water, will be implemented in concert with input from local interests. CALFED must define the assurances that will ensure that projects initiated within the scope of the preferred alternative will meet criteria established by area-of-origin in protections, local laws and ordinances and local groundwater management plans.

D. Financial Plan

The CALFED financial plan should be based upon a comprehensive program that includes significant financial commitments from state and federal agencies. CALFED's financial strategies and principles must recognize that it is appropriate to use public funds for CALFED actions due to the broad-based public benefit of improved water supply, water quality and environmental restoration, and the adverse impacts of past actions on a limited subset of water users.

CALFED must seriously address its recommendations to use a "broad-based Bay-Delta system diversion fee, particularly to finance some of the programs or actions with public benefits, such as the ERP" (Page 144, Phase II Report). This diversion fee would most likely apply to all major diverters of water from tributaries that flow into the delta, as well as exporters of delta water. The finance plan is still vague and will require considerable discussion, analysis and legislative oversight before CALFED can specify that such a fee be authorized within the next year. How can CALFED recommend that the public fund common programs through a new tax, but require stringent conditions and a mandatory "beneficiary pays" policy for storage and conveyance facilities? While user fees may be a consideration, it is far too early to specify the establishment of any new tax on California's citizens.

CALFED should initially focus on the redirection or revised management of state and federal programs related to CALFED's goals. Water suppliers that contribute to the Central

Valley Project Improvement Act Restoration Fund, or to a specific project identified or recognized in the Category III or CALFED program, should receive credit against any potential future financial obligation, a concept CALFED appears to embrace. New fees or contribution requirements must sunset so that funds are recovered only for the specific purposes and duration intended. There should be no tax or fee associated solely with the use or ownership of water.

E. Mitigation Strategy

Mitigation strategies proposed are vague and often may require additional mitigation to compensate for their implementation. The Draft PEIS/EIR, while acknowledging that extensive significant impacts from the CALFED program would occur in the Sacramento Valley, does not identify adequate mitigation measures and suggests that CALFED will not directly assume the responsibility to mitigate impacts caused by its program. Our review of the mitigation strategy raised questions regarding over 20 proposed actions. For example, to mitigate for potential program impacts to groundwater resources, the Draft PEIS/EIR proposes to import water from other basins, which would present obvious difficulties to Sacramento Valley water users. Another groundwater mitigation action proposed is to purchase water rights from willing sellers, which essentially intensifies the potential impacts to source areas already being considered to satisfy ERP flow requirements. Finally, CALFED suggests that groundwater withdrawals be regulated for mitigation purposes. The Draft PEIS/EIR does not provide any discussion on the legal means of accomplishing this potentially controversial measure, which it states is the only sure method of preventing significant groundwater declines.

The mitigation "actions" to alleviate impacts to agricultural resources are more difficult to accept. Providing advice on how to "stretch existing water supplies in cost-effective ways to keep water acquisition costs down" and "ways to increase the production yielded from a unit of water" is not mitigation. In order to comply with CEQA, the mitigation measures must be expanded and strengthened. Mitigation measures associated with CALFED actions must be specifically tied to those actions and be accomplished from the area of benefit.

F. Assurances

To guarantee that CALFED's program will be implemented and operated as agreed, an assurance package containing one or more implementing agreements must be available at the time of the ROD to provide necessary assurances in the following areas:

1. Regulatory Assurances, including:

- Programmatic findings under Section 404 of the Clean Water Act that surface storage is required as part of the program and that the practicable limits for other components of the water management strategy are defined.
- A clear statement of conditions that will trigger the need for delta conveyance and other program actions.
- Programmatic conservation strategy which will provide incidental take of all covered species resulting from systems operations, within the terms of the negotiated Operating Agreement.

2. Operating Assurances, including:

- Extension of the assurances to upstream diverters, including but not limited to "safe harbor" type protections to allow incidental take and no loss of water supply as a result of implementation of ecosystem restoration and other conservation measures. The state and federal Endangered Species Act assurances provided by the Bay-Delta Accord should also be extended equally to all actions taken by individuals and entities within the Sacramento Valley who have initiated or implemented fish and wildlife restoration measures. Individual and entity water rights holders within or upstream of the Delta, who have initiated or implemented sufficient mitigation or restoration programs or projects, shall not be affected by restrictions imposed due to the listing of new aquatic species or modifications or new requirements in aquatic species related biological opinions.

- Agreement that all contractual and statutory protections afforded to the areas of origin will be met and that water supply and quality will not be negatively impacted by CALFED actions.

3. Financial Strategies and principles, including cost-sharing arrangements between local, state and federal entities with user fees linked to demonstrated benefits and long-term assurances.

4. A schedule for funding and implementing all elements of the CALFED Program and a finding that the Program will achieve balanced solutions in all identified problem areas as contained in Proposition 204. Water management actions -

including new surface storage as well as groundwater storage - must move forward together with equal emphasis. Assurances can only be achieved through actions that demonstrate that these programs will move forward. We cannot bear the risks associated with holding off on new surface storage until "soft path" measures are satisfied. The assurance mechanisms must be structured to ensure that urban, agricultural and refuge water users implement the appropriate efficiency measures, commensurate with the level of opportunity identified and commensurate with economic feasibility of implementation.

5. Assurance that conjunctive uses definitions and programs as proposed in the current CALFED planning process prove to be reliable and consistent upon actual implementation. The CALFED proposed conjunctive use/groundwater banking program must contain formal agreements between local, state and federal regulatory agencies to insure that the proposed solutions will not be supplemented in the future by uncertain, additional requirements. For example, CALFED must ensure that the amount of water currently sought is an upper limit and will not be increased in the future. A well-developed conjunctive use program, where applicable, should provide hard copy assurances for local needs first, then address additional needs.

6. Acceptable Level of Agricultural Land and Water Acquisition during Stage 1A, with appropriate local involvement and mitigation. CALFED must address the conditions and linkages necessary before proceeding with acquisition of water and land for environmental restoration purposes. To assure that CALFED's actions involving land acquisition do not adversely affect landowners, local agencies and rural communities, CALFED must:

- Commit to acquire land only on a voluntary (willing seller) basis;
- Develop a local coordination plan that sets forth local participation guidelines and requires local management plans for the long-term used of the land prior to acquisition;
- Provide adequate mitigation for the conversion of agricultural land;
- Develop a program to assure that local government revenues and operations are not impacted by the actions;
- Assure that water rights for the acquired lands remain with the local water suppliers or within the area of origin or watershed of origin, as applicable.

Land acquisition or easement acquisition projects must be reviewed and approved by

the local governments with land use planning authority, in coordination with local water suppliers. Furthermore, land acquisition and easement programs should seek to minimize the impact on and/or conversion of private lands to public or non-profit ownership and utilize existing state and federally owned lands whenever possible.

7. Ecosystem Restoration Assurances. Contrary to CALFED's assertions, there is not complete agreement on ERP assurance issues within the stakeholder community. Consensus-supported implementation of this program can only be achieved after a representative public process is better defined, a comprehensive flood/restoration plan has been developed and assurance issues relating to "natural process replication" are resolved. CALFED's contingency response process (Page 131, Phase II Report) must also include provisions to compensate landowners, water agencies and local governments for the potential uncertain impacts arising from CALFED implementation of natural process replication activities. Adaptive management techniques must apply to human needs as well as species when ecosystem restoration actions are implemented.

8. Multi-Species Conservation Strategy Provisions for Local Entities. CALFED's Multi-Species Conservation Strategy (MSCS - Page 165, Phase II Report) provides an encouraging framework for assuring cooperating landowners that they will not be prevented from continuing their existing land uses because of the implementation of CALFED actions or MSCS conservation measures. We agree that protections for farmers, landowners and local public agencies must be provided in the following instances:

- Neighbors adjacent to land preserved by CALFED agencies for wildlife conservation purposes.
- Levees on which wildlife habitat will be created or enhanced under CALFED.
- Diverters of streams or rivers newly opened to anadromous fishes under the CALFED Program.
- Water diversions in which fish screens will be installed under the CALFED program.

NCWA has proposed an assurances program for the landowners, public agencies and other private organizations whose active participation and collaboration with CALFED will be essential for the success of a multi-species conservation strategy. The assurances program provides the critical avenue through which ecosystem

conservation and restoration can occur in harmony with the needs of landowners, counties, local agencies, and other private interests. We have submitted copies of this proposal under separate cover to various CALFED officials.

F. Watershed Management

CALFED provides no analysis of what the consequences of the various suggested watershed management measures would be on the economic and land use variability in Sacramento Valley foothill communities. In all cases, the program document is silent on the relationship of watershed management to consumptive use issues. Further assessment is also required to demonstrate the impacts of new fees placed on downstream diverters to fund upstream watershed activities.

III. THE REDIRECTION OF NORTHERN CALIFORNIA RESOURCES IS A SIGNIFICANT IMPACT [EFFECT] ON THE ENVIRONMENT

Redirecting agricultural resources to other uses in the CALFED process is not only contrary to the CALFED solution principles, it also constitutes a significant impact on the environment. This discussion will look at the redirection of agricultural land and water, as well as potential flooding, ecosystem and cumulative impacts under the current CALFED proposal.

A. Northern California Land

Sacramento Valley land uses can be impacted by a variety of proposed CALFED actions, including land acquisition for habitat protection and increased difficulty to farm arising from water use efficiency measures. **CALFED has not demonstrated that the long-term efficacy of these programs outweighs the potential impacts to surrounding communities.**

Land acquisition activities for habitat protection purposes undertaken by CALFED and its member agencies will take valuable agricultural land out of production and may alter the fabric of rural Sacramento Valley communities. The PEIS, in section 4.3, discusses the land use changes that will likely occur in the CALFED program. The PEIS estimates that the ecosystem program will directly fallow between 25,500-34,000 acres in Northern California, of which 21,700 – 28,800 acres are considered prime land with the best combination of physical and chemical features for the production of agricultural crops. Storage and conveyance could also fallow from 0 to 32,000 acres. This equals 25,500 to 56,000 acres of

Northern California land that may be taken out of production in the CALFED process alone. The cumulative impacts are even more significant. (See D, below.)

As we have consistently stated from the outset of this program, **CALFED should have a no-net loss policy for agricultural lands**, recognizing that there will be certain limited circumstances when conversion is necessary. Unfortunately, these figures for land fallowing reveal a much different CALFED policy that favors certain components of the environment over that part of the environment that includes productive agriculture. We continue to deplore this pre-determined sentiment against agriculture and urge CALFED to adopt a no-net loss policy for agricultural lands and thus expressly acknowledge that fallowing agricultural lands as part of the CALFED process will have a significant impact on rural areas and the environment.

The Draft PEIS/EIR underestimates potential land use impacts resulting from water use efficiency actions. This assessment does not reflect an issue that has recently become more of a problem in certain areas of the Sacramento Valley: salt build-up in soils where recycled drain water is used for irrigation. This can have a negative impact on crop production, an obviously critical land use issue to farmers. In some areas of the Valley, it has been determined that the cost of recycling water and attendant negative impact on crops is greater than the traditional cost of pumping and returning water back to the river. NCWA supports the CALFED mitigation strategy (for soils and geologic impacts) which proposes that the volume of irrigation water used is always sufficient to flush accumulated salts from the root zone.

Agricultural land may be removed from production because of increased costs and decreased profitability which could result from required CALFED efficiency improvements or increased district water charges (for example, as part of tiered water pricing). This potential consequence is remarkably similar to projected impacts of the CVPIA on westside Sacramento Valley contractors. Due to proposed tiered water pricing, the CVPIA PEIS estimates that up to 570,000 acre-feet of CVP water could be unaffordable for existing local users and not used for water service contract demands. Associated with this loss of water, 56,000 acres of land are expected to go out of production in the Sacramento Valley and possible groundwater impacts may result, as discussed previously. Conversion or loss of agricultural land would be a potentially significant adverse land use impact of this program, particularly when assessed in light of the Central Valley Project Improvement Act.

B. Northern California Water

CALFED has proposed several options that can redirect Northern California water to other uses and therefore result in a significant effect on the environment. Most notably, it appears that the ecosystem, water quality, or water transfers will require significant amounts of agricultural water to meet their goals and visions. Additionally, it appears that CALFED will rely extensively on the transfer of agricultural water to both urban and environmental uses. In all cases, the redirection of agricultural water to other uses is a significant effect on the environment and must be fully analyzed in the PEIS.

The water transfer program and the Environmental Water Account (EWA) are the most visible effort to redirect agricultural water to other uses. At this time, these programs are conceptual in nature and therefore difficult to specify the amount and type of water that will be transferred. Nonetheless, the PEIS must make an effort to look at transfers under the program and analyze the potential effects in detail. The transfer of water will have a significant effect on the environment and the rural areas from which water is transferred, varying with the type of transfer. There are three basic types of transfers that must be analyzed for each region, including: (1) the fallowing of agricultural land, as previously discussed, (2) increased water efficiency or water conservation and its effects on downstream water users and related agriculture, and (3) the substitution of groundwater to replace transferred surface water and its effects on the groundwater resources and the attendant agricultural resources. CALFED must make a choice on this issue. If water transfers are going to be a central part of CALFED, then it must fully (not selectively) analyze the potential impacts. Otherwise, water transfers should be independent of the CALFED process.

As part of this discussion, CALFED must analyze the more subtle water transfers that will occur as a result of the proposed land conversion in the CALFED process. In almost all cases, water rights are either part and parcel with the land or are appurtenant to the land. The land and water must therefore be analyzed as a package that constitutes the agricultural resources. Moreover, any increase in water use that results from fallowing the land, i.e., the creation of wetlands or other habitat, must also be analyzed in the PEIS.

As currently drafted, the CALFED plan will not impart additional water supply benefits to the Sacramento River region. The Sacramento Valley is a contributor to water transfer and conservation efforts with no new water supplies proposed. The U.S. Department of Interior's Programmatic Environment Impact Statement developed for the 1992 Central Valley Project Improvement Act suggests that considerable impacts may occur in the

Sacramento Valley as existing agricultural surface water is transferred for environmental use to outside areas. These impacts will likely result in increased groundwater pumping and changes in farming. The CALFED Draft PEIS/EIR correctly points out that potential beneficiaries of new storage in the Sacramento River Region would be primarily CVP contractors, who would use the water to offset these serious impacts.

More specifically, proposed ERP water acquisitions will reallocate upstream waters away from agricultural uses. The ERP will purchase surface water from existing users to release into streams for in-stream environmental purposes. The reduction in applied surface water can impact local groundwater levels in two ways: 1) Existing irrigation needs may have to be supported by groundwater pumping, and 2) Reduction in applied surface water will cause reductions in groundwater recharge that will affect groundwater levels, storage and quality. These impacts are not discussed in the Draft PEIS/EIR although the report does identify impacts associated with transfers resulting from cross-Delta conveyance improvements. The groundwater impacts identified by CALFED for water transfers should also apply to ERP / EWA-supported water acquisitions.

The Draft PEIS/EIR assessment of groundwater resources seriously downplays several potentially serious impacts that could result from reduced groundwater recharge due to implementation of water use efficiency measures. Additional reliance on groundwater to make up for dwindling surface supplies could have a significant impact on the agricultural economy of these areas. For example, the PEIS prepared for implementation of the Central Valley Project Improvement Act estimates that, due to proposed tiered water pricing, lost surface water deliveries will be replaced through groundwater pumping. Largely the agricultural service contractors served by the Tehama-Colusa Canal will feel these impacts. Yet the Tehama-Colusa Canal project was originally developed in large measure because of the lack of any significant groundwater resources in the area.

The Draft EIS/EIR discusses implications of CVPIA reallocations to San Joaquin groundwater resources. A similar discussion should be included in the previous section relative to CVPIA impacts to Sacramento Valley groundwater. Pronounced groundwater declines on the west side of the Sacramento Valley could have potentially significant economic and environmental impacts. It is a well-documented fact that groundwater levels in many areas on the west side of the valley were already declining prior to the construction of CVP surface water delivery systems over 30 years ago. Upon completion of the Tehama-Colusa and Corning Canals, groundwater levels in some wells began to recover and rose to historic maximum levels. These levels were essentially maintained through the 1970s and

mid-1980s. The drought experienced in the early 1990s, coupled with the increased cost of CVP water, forced many west side irrigators to turn to groundwater, where available, as an affordable, reliable source of supply. However, the increased reliance on groundwater has accompanied noted declines in groundwater levels in several areas close to CVP delivery systems[3].

Finally, the CALFED conjunctive use (groundwater storage) program has not been adequately analyzed in the PEIS, despite the significant effects that this program may have on the groundwater resources in Northern California (see previous discussion on page 7.)

C. Northern California Land and Water

In addition to the direct threats to agricultural land and water, there are more subtle processes, which may also redirect both agricultural land and water and are therefore significant effects on the environment.

1. Conservation Strategy. The CALFED conservation strategy is very nebulous and does not accurately reflect what will happen on the ground. Past HCP's throughout the state have shown that agricultural land has always been targeted for mitigation as part of an HCP. Since CALFED will also undertake an aquatic HCP, it follows that agricultural water will also be targeted as mitigation water. This mitigation will be in addition to the land and water already redirected under the CALFED program. These additional impacts to agricultural resources must be adequately analyzed in the PEIS.

2. Adaptive Management. As a central tenet of CALFED, adaptive management suggests that there may be additional agricultural land and water targeted for ecosystem improvements or other similar uses. Like the HCP, the PEIS does not adequately analyze the potential effects on agricultural land and water that may arise from adaptive management.

D. Impacts to the Ecosystem

The CALFED water use efficiency program will result in less water available to *incidental habitats that are dependent on existing "inefficiencies".* Return flows from rice fields provide important floodwater for winter wetlands habitat in the Butte, Sutter and Colusa

[3] Please see Corning Water District Groundwater Analysis, DWR Northern District, 1996.

Basins of the Sacramento Valley. These flows also support important habitat in water supply canals and drainage ditches, including the Giant Garter Snake (GGS), a federally listed as "threatened" species. Reduction or elimination of losses that are reused by these habitat areas could adversely impact GGS survival.

CALFED water use efficiency actions in the Sacramento Valley may conflict with Giant Garter Snake and other mandated recovery tasks. Of critical importance to Sacramento Valley rice farmers are efforts underway by agency and stakeholder representatives to develop the ongoing recovery plan for the Giant Garter Snake (GGS). Many of the recovery actions under consideration emphasize protection of rice farming and maintenance of traditional canal flows to support recovery of the GGS. Proposed CALFED water use efficiency measures must not interfere with critical recovery processes mandated by the federal Endangered Species Act.

The increase in Sacramento River and tributary stream flows due to meeting March ERP flow targets for delta outflow is expected to be significant. The impacts of these increased flows on downstream levee seepage and diversion performance must be assessed and mitigated for, if necessary. The preferred alternative also proposes more water flow down the Sacramento River for export in the fall. As discussed elsewhere in this report, the hydraulic impacts of these higher than normal flows on downstream water districts and reclamation districts presently battling lateral seepage problems behind existing levees must be assessed and mitigated for in the CALFED solution. CALFED has expressed its commitment to avoid potential seepage and flood impacts of an isolated delta conveyance facility along its alignment (page 85, Phase II Report). Similar commitments should also apply to upstream "conveyance" channels like the Sacramento River and Feather River which may see highly modulated flow patterns that could contribute to seepage and flood problems.

E. Flooding Impacts

ERP actions may exacerbate flooding in the Sacramento Valley. Flood stages will increase not only because of increased stream channel roughness, as observed in the Draft EIS/EIR, but also because of the decreased channel cross section that will result when vegetation and trapped sediment restrict channel flow area. Also, the increased debris loads associated with heavily vegetated stream reaches pose a threat to downstream diversion facilities and transportation infrastructure.

The Delta Long-Term Levee Protection Plan does not appear to address levee construction or reconstruction in areas outside of the legally-defined delta, such as setback levees associated with upstream ecosystem restoration activities. Existing levees along tributaries that are subjected to ever-increasing flow fluctuations as water is moved from upstream storage to the delta should be afforded the same level of attention and emphasis given to delta levees. The risks to delta levees associated with "developing storage south of the delta" and "releasing more water stored north of the delta" apply equally to both Sacramento River and Feather River levee systems. A risk assessment similar to the delta levee assessment should also be made for all tributary areas that will be impacted by land acquisition and flow modifications related to the ERP.

ERP actions may conflict with existing floodplain management regulations. Riparian reforestation, setback levees, and gravel stockpiling should be viewed as floodway development activities. Current federal floodplain regulations administered by designated local agencies (typically city and county building or planning officials) and the Reclamation Board generally restrict development of any type in designated floodways. Development in floodplains, on the other hand, is permitted, subject to certain conditions. CALFED must specify how proposed ERP actions will be implemented in accordance with existing floodplain development regulations, particularly those enforced by the Reclamation Board. Conversely, the CALFED suggestion that "future development" will be excluded from floodplains goes far beyond the intent of current Federal Emergency Management Agency regulations.

F. Cumulative Impacts

The purpose of both NEPA and CEQA would clearly be frustrated if CALFED's actions were considered in isolation rather than by looking to the cumulative impacts. Cumulative impacts are defined in federal law to mean:

> The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. (40 C.F.R. §1508.7; *See* State CEQA Guidelines §§15355.)

The redirection of agricultural land and water to other uses has and will likely continue to take place in California. Yet, despite the cumulative impacts on agricultural resources, the PEIS focuses very narrowly on a limited number of water projects rather than on agricultural resources. The conversion and fallowing of agricultural land must be considered in the context of both urbanization and environmental restrictions that are being imposed on agricultural lands throughout the state. As the attached document entitled "Land Acquisition for Habitat Protection in the Sacramento Valley" shows, the CALFED land conversion proposal associated with ecosystem projects is but a small fraction of the estimated 280,000 acres of land in the Sacramento Valley already dedicated to habitat protection. Another 104,000 to 114,000 acres of additional habitat protection are also estimated to occur in the near future for this region.

The numerous proposals to reallocate agricultural water for both urban and environmental purposes must also be analyzed in the cumulative impacts analysis. If CALFED takes this obligation seriously, when considered cumulatively, the redirection of agricultural land and water is particularly significant and shows the shortsighted policy of CALFED and other agencies to continue redirecting Northern California resources.

IV. REDIRECTING NORTHERN CALIFORNIA LAND AND WATER IS NOT AN UNAVOIDABLE IMPACT IN THE CALFED PROCESS

The consideration of Northern California agricultural resources as an important part of the environment is not an academic exercise. A complete and adequate analysis is important for several reasons. First and most important, both NEPA and CEQA require CALFED to consider *alternatives* that will have less impact on the environment, including agricultural resources. (Pub. Res. Code §21081.) It has generally been recognized that the alternative analysis is the "heart" of the environmental review process and is therefore the key to meaningful environmental review. With respect to land, CALFED must pursue options that do not adversely affect agricultural land. As an example, there are non-agricultural lands that can be used for many of the CALFED programs. With respect to water, there are other components in the CALFED process that, if implemented properly, will reduce the demand on agricultural water resources. Most notably, environmentally sensitive surface storage is an option that must be pursued to avoid impacts on agricultural resources. Alternatives to reduce the impacts on agricultural resources, particularly within the common programs, must be seriously pursued by CALFED in both the program and site-specific environmental review.

Second, if no feasible alternatives are available to protect agricultural resources, then appropriate *mitigation* measures must be adopted with respect to both agricultural land and water. (40 C.F.R. 1505.3, 1508.20; Pub. Res. Code §21081; 21081.1.) Although the mitigation measures in chapter 7.1 of the PEIS are a good start for agricultural resources, the mitigation needs to be taken more seriously and there needs to be an expectation that any impacts on agricultural resources can be fully mitigated to maintain viable agriculture throughout California.

Finally, the analysis of impacts upon agricultural resources has important implications beyond the environmental review process. This analysis will serve as a litmus test for determining whether CALFED has satisfied its solution principles. For example, if CALFED pursues alternatives within its program that do not affect agricultural resources, the solution principles for redirected impacts will clearly be satisfied in this regard. On the other hand, if CALFED continues down the current path and redirects agricultural resources, as revealed in the PEIS, the solution principles are clearly not satisfied. Put differently, if CALFED in its PEIS indicates that there are potentially significant unavoidable impacts on agricultural resources (See PEIS page 7.1-32.), the solution principle for no significant redirected impacts by definition cannot be satisfied. We therefore submit that CALFED must use its PEIS as the litmus test for determining whether there are significant redirected impacts, as discussed in these comments.

V. PRIORITIZED INTEGRATED WATER MANAGEMENT ACTIONS CAN MINIMIZE REDIRECTED IMPACTS AND ENSURE THAT ALL AREAS "GET BETTER TOGETHER"

The CALFED preferred alternative should encourage overall water management as a means to better facilitate the development of water supplies. This will be necessary to avoid any redirected impacts in the Sacramento Valley. Northern California agricultural water managers will likely favor a combination of newly constructed storage with some "demand reduction-induced" storage, where appropriate. We are supportive of CALFED's efforts to provide funding for groundwater basin modeling, planning and monitoring in the Sacramento Valley, including implementation of groundwater pilot projects. We are also encouraged by CALFED's continued planning, site selection, and environmental documentation for new reservoirs and expansion of existing reservoirs.

A. Water Use Efficiency

CALFED's agricultural water use efficiency plan has made encouraging strides in the past nine months. We commend CALFED for proposing to develop regionally specific strategic plans containing water use efficiency quantifiable objectives (Phase II Report, Page 66). This is a sound approach that can properly consider such factors as surface and groundwater quality and quantity, soil quality and type, cultural practices and economic and environmental benefits. We are also encouraged with CALFED's recommendation that financial incentives take the form of incentive grants for water use efficiency measures that are supplemental to measures that are cost-effective at the district level (Phase II Report, Page 69).

CALFED should carefully assess expected benefits and impacts before proposing legislation that requires appropriate measurement or metering of water use for all water users in the State of California. Agricultural water districts already keep accurate records of water entering and leaving their districts. Why should "all state water users" be mandated by state legislation to do so? Would this legislation also apply to the hundreds of thousands of individual groundwater pumpers in California? CALFED must carefully review this proposal, weigh the costs associated with its implementation relative to expected water savings benefits, and identify funding sources for implementation – before proceeding with new legislation.

Without support by the water suppliers and other agencies such as DWR and USBR, high on-farm efficiency, if not impossible, can be much more difficult to achieve. The range of annual costs to achieve on-farm irrigation efficiency of 85 percent in the Sacramento River region is estimated at $50-$60 per acre-foot. In addition, districts will have significant costs for district level improvements such as lining canals, flexible water delivery systems, regulatory reservoirs, tail-water and spill-water recovery systems[4].

CALFED's stipulation that a high level of water use efficiency will be a condition for permitting of any new surface storage projects (page 68, Phase II Report) does not promote CALFED's goal of "getting better together". This condition is unrealistic and possibly counterintuitive within Stage 1. CALFED should encourage demonstrated progress and commitment to improved water use efficiency by beneficiaries of storage projects[5],

[4] CALFED's broad programmatic level cost estimate for water use efficiency for Stage 1 is $2 billion. CALFED estimates the Sacramento River region's district efficiency improvement costs at $13.2 million annually, or an average cost per acre of $7.80.

[5] Including those agencies complying with AB 3616, CVPIA and other approved agricultural water conservation

commensurate with level of opportunity identified and economic feasibility of implementation. At the same time, incremental progress towards implementation of new storage projects should also be made.

B. Surface Storage

New surface storage in the Sacramento Valley must be part of the CALFED program. One of the most significant advantages of north-of-delta storage is the ability to time releases of water for all uses and to supplement seasonal flows to the Sacramento River. In addition to the obvious flood control and "new water" supply benefits, additional key local improvements would be realized through the recreation and economic benefits provided by new surface water impoundments. In CALFED's analyses, expanded surface storage was found to be beneficial for all alternatives, under all scenarios. Further, the analysis on page 61 of the Phase II Report clearly demonstrates that groundwater and new surface storage have the highest ratings of any of the other water management tools (including transfers, conservation, hydroelectric reoperation, conveyance, watershed management, water quality control) relative to satisfying water supply reliability goals and objectives.

All anticipated environmental benefits provided by new surface storage should be given the same emphasis as perceived detrimental environmental impacts. CALFED does not fairly reflect the possible environmental benefits that well-situated storage sites can provide. For example, new offstream reservoirs such as Sites, Red Bank and Waldo can provide downstream environmental benefits by allowing stored water to serve existing agriculture in substitution of colder water, which can be left in the river to benefit aquatic habitat[6]. Also, the development of new surface storage in close proximity to the Tehama-Colusa Canal can provide critical direct flows to west side CVP contractors while extending the "gates open" time at Red Bluff Diversion Dam, thereby greatly improving passage conditions for migratory anadromous fish in the Sacramento River. Finally, the tremendous fishery recovery that has occurred on the Yuba River since the construction of New Bullards Bar Dam and its associated improved downstream flow conditions provides an excellent success story that is conveniently overlooked by anti-dam advocates. We encourage CALFED to consider these issues when assessing overall environmental impacts associated with new surface storage projects.

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plans; and those with locally adopted IRP's and CUWCC certification.

[6] This argument also applies to the Draft PEIS/EIR discussion of increased Sacramento River temperature effects *due to new offstream storage"*

C. Groundwater Management

CALFED must coordinate conjunctive use programs with the appropriate local groundwater management agencies.

New surface water facilities must be equally emphasized with groundwater banking and conjunctive use. Offstream storage would not only provide additional flood control capability, it will also provide a net gain of water from winter storm flows that are otherwise surplus or simply "lost" to the ocean. We strongly suggest that using Northern Sacramento Valley groundwater as a "supply" source presents a short-term, highly variable, unsubstantiated and quite possibly, unreliable source of new water for CALFED and other state and federal programs.

Conjunctive use may be an effective tool, but only if adequate surface storage, recharge facilities and associated plumbing facilities are also constructed. In addition to a number of "new water" supply benefits, additional key local improvements would be realized through the flood control and recreation benefits provided by new surface water impoundments. Finally, one of the strongest advantages to North-of-Delta storage is the ability to release water in a timely manner for fish passage. All of these aspects would impart healthy economic and environmental benefits to the region.

CALFED must assure Sacramento Valley water users that its proposed groundwater programs will coordinate and adhere to applicable local groundwater management plans, monitoring programs, and city and county groundwater ordinances. The CALFED conjunctive use plan prepared for each sub-basin should reflect, foremost, the unique local concern and ground water management authority exercised therein. Those local residents, as represented by their governing boards and water agencies, must be brought into the decision-making process for any proposed groundwater extraction proposals in the Sacramento Valley. All potential participants in the Northern Sacramento Valley should be notified and provided a fair and timely opportunity to take part in the proposed program at the time of its conception.

D. Water Transfer Program

Environmental water transfers should be subjected to the same proper planning and management scrutiny paid to agricultural and urban water transfers. Transfer water,

regardless of the final destination and use, will presumably impart instream environmental benefits for those natural stream reaches located between the transfer participants.

CALFED should emphasize that properly planned and executed water transfers can benefit the local economy while contributing towards resolution of Bay-Delta problems. Considerable discussion in both of these sections of the Draft PEIS/EIR is directed towards the adverse impacts associated with poorly executed water transfers. This section does also briefly discuss how water transfers can augment and improve water supply reliability for local economies. Sacramento Valley water districts participating in water transfers have realized both of these benefits, specific examples of which include funding for local flood control improvements and environmental enhancement projects, and affordable water rates for local users. To further promote healthy water transfers, CALFED must also ensure that all transfers of groundwater are conducted in accordance with relevant local transfer ordinances and policies.

CALFED should not hamstring transfers at the source end by imposing overly restrictive conditions in the receiving basin. The Draft PEIS/EIR impact analysis suggests that the ability to condition transfers on the implementation of water conservation measures in the receiving basin could be an important incentive for increasing water use efficiency. A streamlined water transfer process should ensure that this requirement does not hamper the flexibility of source area sellers to participate in properly executed transfers.

E. Flood Control

Any comprehensive water management plan implemented in the Sacramento Valley must reflect the importance of flood control to this region. CALFED must:

- Develop a proper mitigation policy for implemented actions and ensure guaranteed protection of specific hard points on the Sacramento River and its tributaries.
- Maintain or improve the carrying capacity of existing flood control channels.
- Prepare a plan that establishes responsibility for liability associated with any proposed "limited meander" or setback levee project.
- Retain the SB 1086 management entity in the Sacramento River meander zone.
- Streamline the current, cumbersome permitting process.
- Develop a stable, sufficient funding source to support maintenance, operation and repairs of authorized flood control and bank protection works.

CALFED's solution must improve flood prevention through the development of new surface storage, improved operations of proposed facilities and enhanced re-operation of existing flood control facilities.

F. Water Quality Program

Locally driven water quality programs, with CALFED technical assistance and funding, will play an important part in local water management plans. Thus far, we are encouraged that CALFED's Water Quality Program relies heavily on the implementation of measures based on financial and regulatory incentives rather than on traditional command-and-control methods employed in the past. NCWA will assess the final plan for compliance with the following:

- Coordination / integration of this program with the water quality components of the other common programs.
- CALFED's continued commitment to not establish new performance targets that conflict with existing lists of contaminants or numeric targets.
- Coordination of monitoring with existing programs.
- Reliance upon existing water quality regulations.

In general, the CALFED water quality program should focus on coordinating and providing technical support for the numerous water quality agencies and programs already in place. We strongly recommend that CALFED keep this in mind when contemplating involvement in future source control actions, including "management or further treatment of upstream agricultural drainage" (*Phase II Report*, page 44).

G. Watershed Program

CALFED is putting too much emphasis - $63 million in the first two years of Stage 1 - on watershed management programs. Why are we spending all of this money on watershed projects? CALFED should redirect a portion of the proposed spending from this area towards projects like new fish screens that provide clear, meaningful and documented benefits to the environment and water users. NCWA endorses the cooperative nature of watershed management programs, as evidenced by the successful operations of existing organizations like the Butte Creek Conservancy, Deer Creek Conservancy, and Mill Creek Watershed Conservancy. These groups have demonstrated that local landowners, water districts and other stakeholders, with technical assistance provided by state and federal agencies, can

develop effective solutions to specific local watershed problems. However, the watershed management program, as presently designed, appears to be little more than a study program with little or no commitment to accomplish any meaningful benefit. CALFED must justify the need to propose $63 million for watershed "projects", many of which appear to be "existing conditions reports" and planning documents. Of course, any such program must absolutely comply with the land and water use authority exerted by local counties and water agencies.

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